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5 LAWRENCE A. MICHAELS, SBN 107260
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9 CAROL A. HUMISTON, SBN 115592
10 Senior Assistant City Attorney
City of Burbank
11 275 East Olive Avenue
Burbank, California 91510
12 Tel: 818-238-5707 o Fax: 818-238-5724
Attorneys for Defendant CITY OF BURBANK,
13 including the Police Department of the City of Burbank

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **COUNTY OF LOS ANGELES**

16 OMAR RODRIGUEZ; CINDY GUILLEN-
17 GOMEZ; STEVE KARAGIOSIAN;
ELFEGO RODRIGUEZ; AND JAMAL
18 CHILDS,

19 Plaintiffs,

20 -vs-

21 BURBANK POLICE DEPARTMENT;
CITY OF BURBANK; TIM STEHR;
22 KERRY SCHILF; JAMIE "J.J." PUGLISI;
DAN YADON; KELLY FRANK; PAT
23 LYNCH; MIKE PARRINELLO; AARON
KENDRICK; DARIN RYBURN; AND
24 DOES 1 THROUGH 100, INCLUSIVE.

25 Defendants.
26
27
28

CASE NO: BC 414602

[Assigned to Hon. Joanne O'Donnell,
Dept. 37]

[Discovery Referee: Hon. Diane Wayne,
Ret.]

**DECLARATION OF PHILIP L.
REZNIK IN SUPPORT OF
DEFENDANT'S MOTION IN
LIMINE NO. 7 FOR AN ORDER
EXCLUDING ANY TESTIMONY OF
R. WILLIAM MATHIS, PH.D.**

Trial: April 25, 2011
Time: 9:00 a.m.
Dept. 37

DECLARATION OF PHILIP L. REZNIK

I, Philip L. Reznik hereby declare that:

1. I am a member of the State Bar of California, licensed to practice in all courts in the state and am an and an associate in the law firm of Ballard, Rosenberg, Golper & Savitt, LLP, counsel of record to defendant City of Burbank herein. I have personal knowledge of the following facts and, if asked, could and would testify competently thereto.

2. On March 4, 2011, Defendant served Plaintiff Cindy Guillen-Gomez with a Notice of the Deposition of her designated expert, R. William Mathis, Ph.D., on March 13, 2011. A true and correct copy of that Notice is attached hereto as Exhibit J.

3. On or about March 8, after consultation between my secretary and Dr. Mathis' office, the deposition was re-set for 3:30 p.m. on the afternoon of March 17, 2011, and Defendant served a revised Notice of Deposition reflecting the change in the time and date. A true and correct copy of that Notice is attached hereto as Exhibit K.

4. Attached hereto as Exhibit L is a March 14, 2011 letter from Plaintiffs' counsel, Steven Rheuban, stating, in pertinent part, that Dr. Mathis was not yet prepared to render his opinions at a deposition. A true and correct copy of that letter is attached hereto as Exhibit L. I have underscored the statement regarding Dr. Mathis.

5. At or about noon, on Tuesday, March 15, my secretary received an email from Dr. Mathis' Executive Assistant, Tracy Ray, indicating that, as of that date, Dr. Mathis had never even met Ms. Guillen and stating that he would not attend the scheduled deposition. A true and correct printout of an email string containing that email is attached hereto as Exhibit M.

6. Later that day, I sent a letter to Plaintiffs' counsel, Sol Gresen, stating, in pertinent part, that if Guillen's designated experts failed to appear for their depositions Defendants will seek exclusion of their testimony at trial. A true and correct copy of that letter is attached hereto as Exhibit N. I have bracketed the pertinent paragraph in the letter.

///

7. At or about 8:24 pm that night, I sent an email to Dr. Mathis Executive Assistant, Ms. Ray, putting Dr. Mathis on notice that the deposition remained on calendar for March 17. (Exh. M at 15.)

8. Dr. Mathis failed to appear for his deposition on March 17. A true and correct copy of the court reporter's Affidavit of Nonappearance is attached hereto as Exhibit O.

9. Dr. Mathis finally appeared for deposition on Monday, April 4, 18 days after the noticed date and just nine days prior to trial.

10. On April 6, 2011, I received from the court reporter a rough transcript of the April 4 deposition. True and correct excerpts from that rough transcript are attached thereto as Exhibit P. I have bracketed the portions of Dr. Mathis' testimony referenced herein and underscored the pertinent statements.

11. Dr. Mathis testified that he knew that his deposition was noticed for March 17 but did not appear because he "hadn't seen the client." (Exh. P at 60-61.)

12. He further testified that he had not completed his diagnostic testing of Guillen and that he was not prepared to provide his complete diagnosis of Guillen at that time. (Exh. P at 62-63.)

13. At the end of the deposition, it was stipulated that the deposition would be completed the following week (week of April 11) after Dr. Mathis received the scoring on the standardized tests he administered to Guillen. (Exh. P at 64-65.)

14. At or about 1:39 pm on Tuesday, April 12, I received an email from Mr. Rheuban that Dr. Mathis was *not* available to complete his deposition that week as the parties had agreed. A true and correct printout of an email string containing that email is attached hereto as Exhibit Q. I have bracketed the referenced email.

I declare, under penalty of perjury under the laws of the State of California that the above facts are true to my knowledge. Signed this 14th day of April, 2011, at Glendale, California


PHILIP L. REZNIK, Declarant

Exhibit J

LINDA MILLER SAVITT, SBN 094164
PHILIP L. REZNIK, SBN 204590
BALLARD, ROSENBERG, GOLPER & SAVITT LLP
500 North Brand Boulevard
Twentieth Floor
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Attorneys for Defendant
CITY OF BURBANK, including the Police
Department of the City of Burbank

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES**

OMAR RODRIGUEZ; CINDY GUILLEN-
GOMEZ; STEVE KARAGIOSIAN;
ELFEGO RODRIGUEZ; AND JAMAL
CHILDS,

Plaintiffs,

-VS-

BURBANK POLICE DEPARTMENT;
CITY OF BURBANK; TIM STEHR;
KERRY SCHILF; JAMIE "J.J." PUGLISI;
DAN YADON; KELLY FRANK; PAT
LYNCH; MIKE PARRINELLO; AARON
KENDRICK; DARIN RYBURN; AND
DOES 1 THROUGH 100, INCLUSIVE.

Defendants.

CASE NO: BC 414602

[Assigned to Hon. Joanne O'Donnell,
Dept. 37]

**DEFENDANTS' NOTICE OF
DEPOSITION OF PLAINTIFF'S
DESIGNATED EXPERT R.
WILLIAM MATHIS, Ph.D. AND
DEMAND FOR PRODUCTION OF
DOCUMENTS AT DEPOSITION**

Date: March 13, 2011
Time: 12:30 p.m.
Place: BRGS

Action filed: May 28, 2009
Trial Date: April 13, 2011

///



1 **TO PLAINTIFF CINDY GUILLEN-GOMEZ AND TO HER ATTORNEYS**
2 **OF RECORD:**

3 **PLEASE TAKE NOTICE** that pursuant to Code Civ. Proc. §§ 2025.010, *et seq.* and
4 2034.410 *et seq.*, Defendant CITY OF BURBANK ("Defendant") will depose Plaintiff's
5 designated expert witness as follows:

6 R. William Mathis, Ph.D. March 13, 2011 at 12:30 p.m.

7 This deposition will take place at the law offices of Ballard Rosenberg Golper &
8 Savitt, LLP ("BRGS"), 500 North Brand Boulevard, Twentieth Floor, Glendale, California
9 90213 (818) 508-3700. An expert witness fee will be provided to the Deponent at the time
10 of the deposition. The deposition will be taken before a certified court reporter or other
11 notary public duly authorized by law to administer the oath. If the deposition is not
12 completed by March 13, 2011, it will be completed on a mutually agreeable subsequent date.

13 **PLEASE TAKE FURTHER NOTICE** that pursuant to *Code of Civil Procedure* §
14 2025.220(a)(5), Defendant may record the deposition testimony by videotape, in addition to
15 recording the testimony stenographically, and/or through the use of instant visual display of
16 the testimony. Defendant also reserves the right to use the video of the deposition testimony
17 at trial pursuant to *Code of Civil Procedure* § 2025.620.

18 **PLEASE TAKE FURTHER NOTICE** that at the time of deposition, the Deponent
19 will be required to produce the following writings, documents and/or things for inspection
20 and copying. Please take further notice that the originals of the documents requested to be
21 produced be made available for inspection at the deposition.

22 **DEFINITIONS**

23 The term "document" or "writing(s)" as used herein shall mean all documents as
24 defined in California Evidence Code Section 250, including, without limitation, tape or other
25 forms of audio, visual or audio/visual recordings, drawings, films, graphs, charts,
26 photographs, records, and any retrievable data, whether in computer storage, carded,
27 punched, taped or coded form, or stored electro-statically, electro-magnetically or otherwise.
28 Without limiting the generality of the foregoing, "document(s)" or "writing(s)" specifically

1 includes all contracts, agreements, forms, correspondence, letters, telegrams, telephone
2 messages, notices, notes, memoranda, records, reports, diaries, minutes, statements,
3 worksheets, summaries, books, journals, ledgers, audits, maps, diagrams, drafts, newspapers,
4 appointment books, desk calendars, notes or summaries of personal interviews or
5 conversations, messages (including, but not limited to, reports of telephone conversations and
6 conferences), acknowledgments, telexes, all other written or printed matter of any kind, all
7 other data compilations from which information can be obtained and translated if necessary,
8 all other tangible things. Every draft or nonidentical copy of a document is a separate
9 document, as the terms "document(s)" and "writing(s)" are used herein. As used herein the
10 terms "document(s)" or "writing(s)" shall also include any handwriting, typewriting, printing,
11 photostatic, photographing, and every other means of recording and upon any tangible thing
12 or any form of communication or representation, including letters, words, pictures, sounds
13 or symbols, or combinations thereof, and all other things which come within the definition
14 of "writing(s)" contained in Section 250 of the California Evidence Code.

15 DOCUMENT REQUESTS

16 The documents to be produced by the Deponent at the deposition shall include:

- 17 1. All reports, writings and other documents prepared by the deponent, or by any
18 other person at her direction, in the course of preparing an opinion in this case.
- 19 2. All reports, writings and other documents provided to the deponent by Plaintiff
20 Guillen-Gomez and/or her counsel to assist the deponent in preparing an opinion in this case.
- 21 3. All reports, writings and other documents provided to Plaintiff Guillen-Gomez
22 and/or her counsel by the deponent to assist the deponent in preparing an opinion in this case.
- 23 4. All reports, writings and other documents which were reviewed or consulted
24 by the deponent in connection with this case.
- 25 5. All reports, writings and other documents upon which the deponent has relied
26 in forming an opinion in connection with this case.
- 27 6. The deponent's notes and writings generated in connection with this case.

28 ///

173-3

1 7. All reports, writings and other documents which memorialize the terms upon
2 which the deponent has been retained by Guillen-Gomez, either as a care provider, consultant
3 or as an expert trial witness.

4 8. All time or billing records for the work performed or the costs incurred by the
5 deponent with respect to this case.

6 9. All reports, writings and other documents which reflect the deponent's
7 compensation in connection with this case.

8 10. All reports, writings and other documents, not otherwise produced, prepared
9 by the deponent or by any other person at her direction, that reflect, refer to, or contain, any
10 opinion of the deponent in connection with this case.

11 11. The deponent's entire file concerning treatment, diagnosis, evaluation,
12 consultation, analysis, contact with Plaintiff Guillen-Gomez and/or her counsel, research,
13 investigation and evaluation of the issues concerning the deponent's opinions and their bases.

14 12. All writings or documents reflecting communications between Plaintiff
15 Guillen-Gomez's counsel and the deponent concerning this case.


16 13. A copy of the deponent's C.V. or other resume.

17 14. A copy of any and all relevant articles upon which the deponent has relied in
18 formulating his opinions in this case.

19 15. A listing of any and all articles or publications authored in whole or in part by
20 the deponent.

21
22 DATED: March 4, 2011

BALLARD ROSENBERG GOLPER & SAVITT, LLP

23
24 By: 
PHILIP L. REZNIK
25 Attorneys for Defendant
26 CITY OF BURBANK, including the Police Department
27 of the City of Burbank
28

PROOF OF SERVICE

I am a citizen of the United States, and am employed in the County of Los Angeles in the office of a member of the bar of this Court at whose directions this service was made. I am over the age of 18, and not a party to the within action. My business address is Ballard, Rosenberg, Golper & Savitt, 500 North Brand Boulevard, Twentieth Floor, Glendale, California 91203-9946.

On March 4, 2011, I served the foregoing document described as:
**DEFENDANTS' NOTICE OF DEPOSITION OF PLAINTIFF'S DESIGNATED
EXPERT R. WILLIAM MATHIS, Ph.D. AND DEMAND FOR PRODUCTION OF
DOCUMENTS AT DEPOSITION** on the interested parties in this action, by placing a true copy thereof in a sealed envelope addressed as follows:

Solomon E. Gresen, Esq.
Steven V. Rheuban, Esq.
Law Offices of Rheuban & Gresen
15910 Ventura Boulevard, Suite 1610
Encino, CA 91436
Tel: (818) 815.2727
Fax: (818) 815-2737
seg@rglawyers.com

Lawrence A. Michaels, Esq.
Sarah T. Wirtz, Esq.
Veronica T. Von Grabow, Esq.
Mitchell Silberberg & Knupp
11377 W. Olympic Blvd.
Los Angeles, CA 90064
Tel: (310) 312-2000
Fax: (310) 312-3100
lam@msk.com
stw@msk.com
vtr@msk.com

Carol A. Humiston
Senior Assistant City Attorney
City of Burbank
275 E. Olive Avenue
Burbank, CA 91510
Telephone: (818) 238-5707
Facsimile: (818) 238-5724
chumiston@ci.burbank.ca.us
Attorney for Defendant

X

(BY ELECTRONIC MAIL) I sent the above-mentioned documents via electronic mail addressed as set forth above.

X

(BY MAIL) and personally placing such envelope with postage fully prepaid for collection and mailing on the above-referenced date following the ordinary business practices of this office. I am readily familiar with our office's practice for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence, including said envelope, will be deposited with the United States Postal Service at Glendale on the above-referenced date.

I declare under penalty of perjury that the foregoing is true and correct under the laws of the State of California. Executed on March 4, 2011, at Glendale, California.


Leslie Rehels

173-5

8

(SPACE BELOW FOR FILING STAMP ONLY)

LINDA MILLER SAVITT, SBN 094164
PHILIP L. REZNIK, SBN 204590
BALLARD, ROSENBERG, GOLPER & SAVITT LLP
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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

OMAR RODRIGUEZ; CINDY GUILLEN-
GOMEZ; STEVE KARAGIOSIAN;
ELFEGO RODRIGUEZ; AND JAMAL
CHILDS,

Plaintiffs,

-VS-

BURBANK POLICE DEPARTMENT;
CITY OF BURBANK; TIM STEHR;
KERRY SCHILF; JAMIE "J.J." PUGLISI;
DAN YADON; KELLY FRANK; PAT
LYNCH; MIKE PARRINELLO; AARON
KENDRICK; DARIN RYBURN; AND
DOES 1 THROUGH 100, INCLUSIVE.

Defendants.

CASE NO: BC 414602

[Assigned to Hon. Joanne O'Donnell,
Dept. 37]

**DEFENDANTS' NOTICE OF
DEPOSITION OF PLAINTIFF'S
DESIGNATED EXPERT R.
WILLIAM MATHIS, Ph.D. AND
DEMAND FOR PRODUCTION OF
DOCUMENTS AT DEPOSITION**

New Date: March 17, 2011
Time: 3:30 p.m.
Place: BRGS

Action filed: May 28, 2009
Trial Date: April 13, 2011

///



1 TO PLAINTIFF CINDY GUILLEN-GOMEZ AND TO HER ATTORNEYS
2 OF RECORD:

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1 includes all contracts, agreements, forms, correspondence, letters, telegrams, telephone
2 messages, notices, notes, memoranda, records, reports, diaries, minutes, statements,
3 worksheets, summaries, books, journals, ledgers, audits, maps, diagrams, drafts, newspapers,
4 appointment books, desk calendars, notes or summaries of personal interviews or
5 conversations, messages (including, but not limited to, reports of telephone conversations and
6 conferences), acknowledgments, telexes, all other written or printed matter of any kind, all
7 other data compilations from which information can be obtained and translated if necessary,
8 all other tangible things. Every draft or nonidentical copy of a document is a separate
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10 terms "document(s)" or "writing(s)" shall also include any handwriting, typewriting, printing,
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20 Guillen-Gomez and/or her counsel to assist the deponent in preparing an opinion in this case.
- 21 3. All reports, writings and other documents provided to Plaintiff Guillen-Gomez
22 and/or her counsel by the deponent to assist the deponent in preparing an opinion in this case.
- 23 4. All reports, writings and other documents which were reviewed or consulted
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26 in forming an opinion in connection with this case.
- 27 6. The deponent's notes and writings generated in connection with this case.

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1 7. All reports, writings and other documents which memorialize the terms upon
2 which the deponent has been retained by Guillen-Gomez, either as a care provider, consultant
3 or as an expert trial witness.

4 8. All time or billing records for the work performed or the costs incurred by the
5 deponent with respect to this case.

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8 10. All reports, writings and other documents, not otherwise produced, prepared
9 by the deponent or by any other person at her direction, that reflect, refer to, or contain, any
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13 investigation and evaluation of the issues concerning the deponent's opinions and their bases.

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15 Guillen-Gomez's counsel and the deponent concerning this case.

16 13. A copy of the deponent's C.V. or other resume.

17 14. A copy of any and all relevant articles upon which the deponent has relied in
18 formulating his opinions in this case.

19 15. A listing of any and all articles or publications authored in whole or in part by
20 the deponent.

21
22 DATED: March 8, 2011

BALLARD ROSENBERG GOLPER & SAVITT, LLP

23
24 By: 

PHILIP L. REZNIK

Attorneys for Defendant

CITY OF BURBANK, including the Police Department
of the City of Burbank

PROOF OF SERVICE

I am a citizen of the United States, and am employed in the County of Los Angeles in the office of a member of the bar of this Court at whose directions this service was made. I am over the age of 18, and not a party to the within action. My business address is Ballard, Rosenberg, Golper & Savitt, 500 North Brand Boulevard, Twentieth Floor, Glendale, California 91203-9946.

On March 8, 2011, I served the foregoing document described as:
DEFENDANTS' NOTICE OF DEPOSITION OF PLAINTIFF'S DESIGNATED EXPERT R. WILLIAM MATHIS, Ph.D. AND DEMAND FOR PRODUCTION OF DOCUMENTS AT DEPOSITION on the interested parties in this action, by placing a true copy thereof in a sealed envelope addressed as follows:

Solomon E. Gresen, Esq.
Steven V. Rheuban, Esq.
Law Offices of Rheuban & Gresen
15910 Ventura Boulevard, Suite 1610
Encino, CA 91436
Tel: (818) 815.2727
Fax: (818) 815-2737
seg@rglawyers.com

Lawrence A. Michaels, Esq.
Sarah T. Wirtz, Esq.
Veronica T. Von Grabow, Esq.
Mitchell Silberberg & Knupp
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Los Angeles, CA 90064
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Carol A. Humiston
Senior Assistant City Attorney
City of Burbank
275 E. Olive Avenue
Burbank, CA 91510
Telephone: (818) 238-5707
Facsimile: (818) 238-5724
chumiston@ci.burbank.ca.us
Attorney for Defendant

X

BY FACSIMILE; and

(BY ELECTRONIC MAIL) I sent the above-mentioned documents via electronic mail addressed as set forth above.

X

(BY MAIL) and personally placing such envelope with postage fully prepaid for collection and mailing on the above-referenced date following the ordinary business practices of this office. I am readily familiar with our office's practice for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence, including said envelope, will be deposited with the United States Postal Service at Glendale on the above-referenced date.

I declare under penalty of perjury that the foregoing is true and correct under the laws of the State of California. Executed on March 8, 2011, at Glendale, California.


Leslie Reheis

STEVEN V. RHEUBAN
SOLOMON E. GRESSEN

LAW OFFICES OF
RHEUBAN & GRESSEN
15910 VENTURA BOULEVARD
SUITE 1610
ENCINO, CALIFORNIA 91436
TELEPHONE: (818) 815-2727
FACSIMILE: (818) 815-2737

STEVEN M. CISCHE
ROBERT C. HAYDEN
JOSEPH M. LEVY
INDIA S. THOMPSON

March 14, 2011

VIA EMAIL: LAM@msk.com & U.S. MAIL

Lawrence A. Michaels, Esq.
Mitchell Silberberg & Knupp LLP
11377 West Olympic Boulevard
Los Angeles, CA 90064-1683

Re: Rodriguez v. Burbank Police Department, et al.
LASC Case No. BC 414 602
Further Meet and Confer Re Deposition of Experts

Dear Mr. Michaels:

We have a trial set for Monday morning, March 21, 2011. Mr. Drummond and Dr. Mathis are designated experts for that trial and will be unavailable for deposition next week. Since we are still waiting for the Judge's decision on the *Pitchess* motion, and since we do not have the information that we expect the motion will disclose, Mr. Drummond is not yet prepared to render his opinions. Dr. Mathis is also not yet prepared to render his opinions at a deposition. Ms. Guillen is attending training on Friday, March 18, 2011, and Mr. Gresen and I are busy preparing for the trial on Monday and are not available to attend a deposition with Ms. Guillen.

As Mr. Gresen has explained to you, we are going to make an *ex parte* request for a continuance of the trial, since we have not yet received a ruling on the Motion for Summary Judgment. And, we have not received the documents from the *Pitchess* motions (on which there is not yet a ruling) and we cannot properly prepare for trial in the absence of such documents. We also believe it is unreasonable for us to have to incur the expense for the expert witnesses in light of a lack of ruling on the Motion for Summary Judgment.

Please accept this email as our further meet and confer regarding these issues and as our notice that on Thursday, March 17, 2011, we will appear in Department 37 at 8:30 .am. for the purpose of requesting a continuance of the trial for at least 30 days, or such other later date as may be convenient to the court and counsel .

Very truly yours,

LAW OFFICES OF RHEUBAN & GRESSEN

Steven V. Rheuban

SVR/dj

14 1764

Philip L. Reznik

From: Philip L. Reznik
Sent: Tuesday, March 15, 2011 8:24 PM
To: 'tracy@mathisgroup.net'
Cc: 'jan.mathis@gmail.com'; 'Solomon Gresen'; 'Humiston, Carol Ann'; 'Michaels, Larry'; Linda C. Miller Savitt; 'von Grabow, Veronica'; 'Wirtz, Sarah'; Leslie Reheis
Subject: RE: Rodriguez v. City of Burbank

Tracy,

Per the deposition notices, this firm represents the City of Burbank, the defendant in this action. This firm did not retain or designate Dr. Mathis as an expert witness. The opposing party, i.e., the Plaintiff -- Cindy Guillen-Gomez -- designated Dr. Mathis as an expert. Please note that Dr. Mathis' deposition on Thursday afternoon remains on calendar. Trial is set for April 13. A deposition on or after April 4 would not leave enough time for our own experts to prepare for trial. If we cannot depose Dr. Mathis by next week, at the latest, we will have no choice but to seek exclusion of his testimony at trial.

From: Leslie Reheis
Sent: Tuesday, March 15, 2011 4:21 PM
To: Philip L. Reznik
Subject: FW: Rodriguez v. City of Burbank

Leslie Reheis
(818) 508-3700 x 2145
lreheis@brgslaw.com

From: Tracy Ray [mailto:]
Sent: Tuesday, March 15, 2011 3:33 PM
To: Leslie Reheis
Cc: Dr. Bill Mathis; Jan Mathis (jan.mathis@gmail.com); Barbara Kamin
Subject: RE: Rodriguez v. City of Burbank

Leslie,

Dr. Mathis asked if he will need to see your client first of all.
Secondly, if that is not the case then he can review papers on court case (Rodriguez v. City of Burbank) and we could possibly look at either the 4th or the 6th of April both would be morning appointments.

Thank you!

Tracy Ray
Executive Assistant

3/16/2011





Mathis Group
3435 Valle Verde Drive
Napa, CA 94558
(707) 252-2151 Phone
(707) 252-1349 Fax
www.Mathisgroup.net

From: Leslie Reheis [mailto:lreheis@brgslaw.com]
Sent: Tuesday, March 15, 2011 12:40 PM
To: Tracy Ray
Cc: Philip L. Reznik
Subject: RE: Rodriguez v. City of Burbank

Tracy - what would be the next available day that Dr. Mathis would have for his deposition after Thursday, March 17, 2011? Thank you.

Leslie Reheis
(818) 508-3700 x 2145
lreheis@brgslaw.com

From: Tracy Ray [mailto:tracy@mathisgroup.net]
Sent: Tuesday, March 15, 2011 12:00 PM
To: Leslie Reheis
Cc: Dr. Bill Mathis; Jan Mathis (jan.mathis@gmail.com); Barbara Kamin
Subject: RE: Rodriguez v. City of Burbank

Leslie,
Dr. Mathis cannot be deposed on someone he has not seen. He unfortunately will not be attending.
Thank you for your understanding in this matter.

Tracy Ray
Executive Assistant



Mathis Group
3435 Valle Verde Drive
Napa, CA 94558
(707) 252-2151 Phone
(707) 252-1349 Fax

3/16/2011

175-2 16

www. Mathisgroup.net

From: Leslie Reheis [mailto:lrheis@brgslaw.com]

Sent: Tuesday, March 15, 2011 11:51 AM

To: Tracy Ray

Cc: seg@rglawyers.com; dj@rglawyers.com; sf@rglawyers.com; Michaels, Larry; von Grabow, Veronica; Sarah T. Wirtz; CHumiston@ci.burbank.ca.us; Arutyunyan, Lusine; Linda C. Miller Savitt; Lori Leibman; Philip L. Reznik

Subject: Rodriguez v. City of Burbank

Hi Tracy - This will confirm our telephone conversation of today's date confirming Dr. Mathis deposition for Thursday, March 17, 2011, 3:30 p.m. in our offices regarding the above matter. As a reminder, we are going to need Dr. Mathis' tax identification number to have a check issued for him. Please call with any questions and thank you for all your help.

Leslie Reheis, Assistant to Gordon Kojima & Phil Reznik
Ballard Rosenberg Golper & Savitt, LLP
500 North Brand Boulevard
Twentieth Floor
Glendale, CA 91203
Tele. (818) 508-3700
Fax. (818) 506-4827
lrheis@brgslaw.com

This Message Contains Information Which May Be Confidential And Privileged.
Unless You Are The Addressee (Or Authorized To Receive For The Addressee),
You May Not Use, Copy Or Disclose To Anyone The Message Or Any Information
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If You Have Received The Message In Error, Please Advise
The Sender By Reply E-Mail info@brgslaw.com, And delete The Message.
Do Not Forward Without Author's Permission.

Thank You Very Much.

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Unless You Are The Addressee (Or Authorized To Receive For The Addressee),
You May Not Use, Copy Or Disclose To Anyone The Message Or Any Information
Contained In The Message.

If You Have Received The Message In Error, Please Advise
The Sender By Reply E-Mail info@brgslaw.com, And delete The Message.
Do Not Forward Without Author's Permission.

Thank You Very Much.

3/16/2011

175-3 17



LABOR AND EMPLOYMENT LAW
ON BEHALF OF MANAGEMENT
AND RELATED LITIGATION

500 NORTH BRAND BOULEVARD
TWENTIETH FLOOR
GLENDALE, CALIFORNIA 91203-9946

TELEPHONE:
818-508-3700

FACSIMILE:
818-506-4827

E-MAIL:
Preznik@brgsiaw.com

March 15, 2011

Solomon E. Gresen, Esq.
Law Offices of Rheuban & Gresen
15910 Ventura Blvd., Suite 1610
Encino, CA 91436

Re: Rodriguez v. Burbank Police Department, et al.

Dear Mr. Gresen:

We have received the attached email from the office of Dr. Mathis indicating that he is refusing to appear for his noticed deposition on Thursday afternoon because he has never seen Ms. Guillen. We have also been provided a copy of the letter Mr. Rheuban sent to Larry Michaels today (copy attached), which indicates that, in addition to Dr. Mathis, your other designated expert, Mr. Drummond, is also not prepared and will thus not be produced for his noticed deposition on March 24, nor will he be prepared at any time prior to obtaining the documents that you "expect" to be disclosed pursuant to the pending Pitchess motion.

The letter **also** indicates that -- in addition to failing to appear for her noticed deposition on March 14 due to a "misfiling" of the deposition notice at your office -- Ms. Guillen will not appear for deposition at any time next week either, purportedly because neither you nor Mr. Rheuban will be available to attend.

These delays are unacceptable on the eve of trial and the City will not agree to a continuance of any of these properly-noticed depositions. As you know, pursuant to Code of Civil Procedure § 2034.260(c)(4), you are required to ensure that any experts named are ready to submit to a meaningful deposition regarding any opinion he or she is expected to give at trial. If they are not ready to testify, that is because of Ms. Guillen's own unreasonable delay in obtaining an expert consultation and filing a Pitchess motion. This case was filed in May of 2009. She cannot colorably assert that she has not had time to consider whether she would be calling an expert witness regarding her alleged emotional and psychological damages, to select such an expert and to have the expert perform a psychological evaluation. Likewise, there is absolutely no reason that, in the almost two years that this case has been pending, she could not have filed a Pitchess motion prior to the eve of trial.



As to Dr. Mathis, notice of his deposition was served on February 22, with the deposition initially set for March 13, 2011. Then, **after consultation with Dr. Mathis' office regarding his schedule**, we agreed to **continue** the deposition to March 17, 2011. At no time prior to today did Dr. Mathis indicate that he had never even met Ms. Guillen and is not prepared to testify. Further, per the attached email, if and when Dr. Mathis ever meets and examines Ms. Guillen, he will still not be available for deposition until **April 4 at the earliest – only nine days before trial**. As to Mr. Drummond, there is no telling when the Court will rule on the Pitchess motion, when the Court will review any material deemed to be subject to *in camera* inspection and when such inspection would be completed. The lack of readiness of by Plaintiff's expert is inexcusable and refusing to produce her experts for deposition seriously prejudices the City's ability to prepare for trial because its own witnesses will not have time to properly develop their own opinions.

Under these circumstances, Ms. Guillen's failure to make her experts available for deposition is clearly "unreasonable" and if they fail to appear for the depositions their testimony will be subject to exclusion pursuant to CCP § 2034.300(d). Accordingly, we ask that you immediately withdraw the designation of these experts. If you will not do so, and they fail to appear for their depositions, the City will have no choice but to seek exclusion of their testimony at trial.

Further, the City will not agree to the proposed indefinite continuance of Ms. Guillen's deposition. Mr. Rheuban's letter indicates that she will not appear on Friday, or next week, but gives no indication of when she *is* willing to appear for her deposition, if at all. Moreover, while it states that neither you nor Mr. Rheuban is available to attend depositions next week, it gives no reason why any of the other Rheuban & Gresen attorneys who have worked on this case -- Mr. Cischke, Mr. Hayden, Mr. Levy or Ms. Thompson -- cannot attend the depositions.

Finally, neither Ms. Guillen's delay in preparing her experts nor the fact that the Court has not yet ruled on summary judgment constitute good cause for continuing the trial. In addition to setting Ms. Guillen's trial in June, the Court set trial for Mr. Karagiosian's claims in June and for Omar Rodriguez' claims in July. Continuing the trial on Ms. Guillen's claims will provide insufficient time to prepare for the Karagiosian trial, which would in turn impact the Rodriguez trial. The end result would be a substantial and unjustifiable further delay in resolving this matter, which has already dragged on for almost two years.

Please respond as soon as possible, but in no event later than noon tomorrow, as to whether Ms. Guillen will voluntarily withdraw her experts.

Solomon Gresen, Esq., et al.
March 15, 2011
Page 3

Otherwise, we will ask the Court to exclude them at the *ex parte* appearance on Thursday.

Very truly yours,

BALLARD, ROSENBERG, GOLPER & SAVITT LLP


Philip L. Reznik

attachments

cc: Carol Humiston, Esq.
Larry Michaels, Esq.
Linda Miller Savitt, Esq.

176-3 20

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

ORIGINAL

Omar Rodriguez; Cindy,)	
Guillen-Gomez; Steve Karagiosian;)	
Elfego Rodriguez; and Jamal)	
Childs,)	
Plaintiffs,)	No. BC414602
vs.)	AFFIDAVIT OF
Burbank Police Department;)	NONAPPEARANCE
City of Burbank; Tim Stehr;)	R. William Mathis Ph.D.
Kerry Schilf; Jamie "J.J.")	
Puglisi; Dan Yadon; Kelly Frank;)	
Pat Lynch; Mike Parrinello;)	
Aaron Kendrick; Darin Ryburn;)	
and Does 1 through 100,)	
Inclusive,)	
Defendants.)	

I, Susan C. Campana, a certified shorthand
reporter in and for the state of California, do hereby
report as follows:

That on Thursday, March 17, 2011, at 3:30 p.m.,
pursuant to Notice, the deposition of R. William Mathis,
Ph.D., was to have been taken before me at 500 North
Brand Boulevard, Twentieth Floor, Glendale, California;

Page 1

1 That at said time and place I personally
2 appeared, as did Philip L. Reznik, counsel for Defendant
3 City of Burbank;

4 That I reported the statement by counsel
5 contained herein;

6 That we remained at such place until 4:15 p.m.,
7 during which time said witness did not appear for his
8 deposition.

9
10 Respectfully submitted this 21st day of
11 March, 2011, Agoura Hills, California.

12
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18 
19 SUSAN C. CAMPANA, CSR NO. 9573

1 GLENDALE, CALIFORNIA; THURSDAY, MARCH 17, 2011

2 3:39: P.M.

3 -oOo-

4
5 MR. REZNIK: This is the deposition of Plaintiff
6 Cindy Guillen-Gomez's designated expert, R. William
7 Mathis, Ph.D., which has been duly noticed for March 17,
8 2011, today, this afternoon, at 3:30 p.m. The time now
9 is 3:39 p.m.

10 I am Philip Reznik, appearing for Defendant City
11 of Burbank.

12 As of now, neither Dr. Mathis nor plaintiff's
13 counsel has appeared. I think what we're going to do is
14 wait about a half an hour and see if they show up.

15 In the meantime, there are a few exhibits that I
16 want to put on the record.

17 The first will be 172, Plaintiff Cindy
18 Guillen-Gomez's expert disclosure which was served on the
19 defendant on February 22, 2011.

20 The next exhibit, 173, is defendant's notice of
21 deposition of plaintiff's designated expert, R. William,
22 Mathis, Ph.D., and demand for production of documents at
23 deposition.

24 This is the first of two deposition notices. It
25 was served on plaintiffs, as shown on the proof of

Page 3

1 service, on March 4, 2011, and initially set the date of
2 the deposition -- the date and time as March 13, 2011, at
3 12:30 p.m. I will represent that after consultation of
4 this office with the office of Dr. Mathis, there was an
5 agreement to continue the deposition to today, March 17,
6 2011, at 3:30 p.m.

7 And Exhibit 174 will be the defendant's notice
8 of deposition of plaintiff's designated expert, R.
9 William Mathis, Ph.D., and demand for production of
10 documents. This is the second notice which was served on
11 March -- it appears to be March 8, 2011.

12 The time is now 3:43. Neither the deponent nor
13 plaintiff's counsel has appeared.

14 Let's go ahead and go off the record.

15 (Off the record from 3:43 p.m. until 4:09 p.m.)

16 MR. REZNIK: It is 4:09 p.m. Neither the deponent
17 nor plaintiff's counsel have appeared for Dr. Mathis's
18 deposition.

19 There is a couple of more exhibits I want to put
20 on the record.

21 This will be Exhibit No. 175. Exhibit No. 175
22 is a string of email correspondence between my secretary,
23 Leslie Reheis, and Tracy Ray, who is an executive
24 assistant at the Mathis Group, which is Dr. Mathis's
25 company in Napa, California.

AFFIDAVIT OF NON APPEARANCE RE R. WILLIAM MATHIS Ph.D.

1 Reviewing this from the bottom, there is a
2 March 15th email from Ms. Reheis to Ms. Ray at 11:51
3 stating in pertinent part, "This will confirm our
4 telephone conversation of today's date confirming
5 Dr. Mathis's deposition for Thursday, March 17, 2011,
6 3:30 p.m., in our offices regarding the above matter."

7 Then Ms. Ray responds. Again, reading upwards
8 from the bottom, she responds at 12:00 p.m. the same day,
9 stating, "Dr. Mathis cannot be deposed on someone he has
10 not seen. He unfortunately will not be attending."

11 To which Ms. Reheis responds with an email at
12 12:40 stating, "Tracy - what would be the next available
13 day that Dr. Mathis would have for his deposition after
14 March 17, 2011?"

15 Ms. Ray responds at 3:33 and indicates that, "We
16 could possibly look at either the 4th or the 6th of
17 April..."

18 And then I sent a responding email at 8:24 that
19 night of March 15th -- 8:24 p.m., stating -- I'm looking
20 down a few sentences here. It says, "Please note that
21 Dr. Mathis's deposition on Thursday afternoon remains on
22 calendar. Trial is set for April 13th. A deposition on
23 or after April 4th would not leave enough time for our
24 own experts to prepare for trial. If we cannot depose
25 Dr. Mathis by next week, at the latest, we will have no
AFFIDAVIT OF NON APPEARANCE RE R. WILLIAM MATHIS Ph.D.

1 choice but to seek exclusion of his testimony at trial."

2 So that's Exhibit 175.

3 Exhibit 176 is a letter from myself to
4 plaintiff's counsel, Solomon Gresen, also dated
5 March 15, 2011. And it's got some attachments. But on
6 the second page, I have bracketed off a paragraph which
7 reads in pertinent part, "Ms. Guillen's failure to make
8 her experts available for deposition is clearly
9 'unreasonable,' and if they fail to appear for the
10 depositions, their testimony will be subject to exclusion
11 pursuant to CCP Section 2034.300(d). Accordingly, we
12 ask that you immediately withdraw the designation of
13 these experts. If you will not do so, and they fail to
14 appear for their depositions, the City will have no
15 choice but to seek exclusion of their testimony at
16 trial."

17 That's Exhibit 176.

18 And I will note for the record that it is 4:15.
19 We have waited 45 minutes for the deponent and
20 plaintiff's counsel to appear. And despite the notice
21 that the expert, Dr. Mathis, would be excluded if he
22 failed to appear, Dr. Mathis has failed to appear.

23 -oOo-
24
25

COPY

SOLOMON E. GRESEN [SBN: 164783]
STEVEN V. RHEUBAN [SBN: 48538]
ROBERT C. HAYDEN [84816]
LAW OFFICES OF RHEUBAN & GRESEN
15910 VENTURA BOULEVARD, SUITE 1610
ENCINO, CALIFORNIA 91436
TELEPHONE: (818) 815-2727
FACSIMILE: (818) 815-2737

Attorneys for Plaintiffs

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

OMAR RODRIGUEZ; CINDY GUILLEN-
GOMEZ; STEVE KARAGIOSIAN;
ELFEGO RODRIGUEZ; AND JAMAL
CHILDS,

Plaintiffs,

-vs-

BURBANK POLICE DEPARTMENT; CITY
OF BURBANK; AND DOES 1 THROUGH
100, INCLUSIVE.

Defendants.

BURBANK POLICE DEPARTMENT; CITY
OF BURBANK,

Cross-Complainants,

-vs-

OMAR RODRIGUEZ, and Individual,

Cross- Defendant

CASE NO.: BC 414 602

Assigned to: Hon. Joanne B. O'Donnell, Judge
Dept. 37

Complaint Filed: May 28, 2009

**PLAINTIFF CINDY GUILLEN-GOMEZ'S
EXPERT DISCLOSURE**

Trial Date: April 13, 2011



1
2 Plaintiff Cindy Guillen-Gomez hereby designates the following expert witnesses:

- 3 1. Oliver "Lee" Drummond
4 Drummond, Inc.
5 2554 Sequoia Avenue
6 Sanger CA 93657 3817
7

8 Mr. Drummond has been designated as an expert witness with respect to the policies,
9 practices and/or procedures, and training in effect at El Monte at the time of the incident and he will
10 give testimony in respect thereto.

- 11 2. R. William Mathis, Ph.D.
12 3435 Valle Verde Drive
13 Napa, CA 91701

14 Dr. Mathis has been designated as an expert witness, who will testify with respect to
15 emotional and psychological damages Plaintiff suffered as a result of her harassment and
16 discrimination from the Burbank Police Department.

17 Pursuant to *Code of Civil Procedure* §2034.310, Plaintiff reserves the right to call an expert
18 to impeach the testimony of an expert witness offered by any other party, including testimony to the
19 falsity or nonexistence of any fact used as the foundation for any opinion by any other party's expert
20 witness.

21
22 Dated: February 22, 2011

LAW OFFICES OF RHEUBAN & GRESEN

23
24 By: Steven M. Cischke
25 Steven M. Cischke
26 Attorneys for Plaintiff
27
28

EXPERT WITNESS DECLARATION OF STEVEN M. CISCHE

I, Steven M. Cischke, hereby declare:

1. I am an attorney duly licensed to practice before the courts in the State of California. I have personal knowledge of the facts contained herein and if called upon to testify as a witness, could and would competently testify thereto.

2. This Declaration is submitted in support of the list of persons whose expert opinion testimony Plaintiff Cindy Guillen-Gomez expects to introduce at trial in the above-entitled matter.

3. The following named experts are designed as expert witnesses with respect to issues in the above-captioned action:

Oliver "Lee" Drummond
Drummond, Inc.
2554 Sequoia Avenue
Sanger CA 93657 3817
(559) 876-1061

R. William Mathis, Ph.D.
3435 Valle Verde Drive
Napa, CA 91701
(707) 252-2151

4. At trial, it is expected that Oliver "Lee" Drummond will provide testimony concerning the policies, practices and/or procedures, and training in effect at El Monte at the time of the incident. The policies, practices and/or procedures, and training which should have been in effect in El Monte at the time of the occurrence, as well as the Departmental response to Plaintiff's allegations of harassment and retaliation and related matters. He will also provide opinions with respect to the testimony and opinions of other experts.

5. Mr. Drummond has agreed to testify at trial.

6. Mr. Drummond's fee for providing deposition testimony is \$400.00 per hour (3 hour minimum).

1 7. At trial, Plaintiff intends to call Dr. Mathis who will testify with respect to emotional
2 and psychological damages Plaintiff suffered as a result of the harassment and discrimination she
3 has and continues endure from the Burbank Police Department . He will also provide opinions with
4 respect to the testimony and opinions of other experts.

5 8. Dr. Mathis has agreed to testify at trial.

6 9. Dr. Mathis's fee for providing deposition testimony is \$375.00 per hour.

7
8 Dated: February 22, 2011

LAW OFFICES OF RHEUBAN & GRESEN

9
10 By: Steven M. Cischke
11 Steven M. Cischke
12 Attorneys for Plaintiffs
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 1301 West 2ND Street, Suite 205, Los Angeles, CA 90026.

On February 22, 2011, I caused the foregoing documents described as: **PLAINTIFF CINDY GUILLEN-GOMEZ'S EXPERT DISCLOSURE** to be personally served by delivering a true copy thereof enclosed in a sealed envelope addressed as follows:

Lawrence A. Michaels, Esq.
Mitchell Silberberg & Knupp LLP
11377 West Olympic Boulevard
Los Angeles, CA 90064-1683

☐ (BY MAIL) I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at Encino, California.

☐ (BY FACSIMILE) I caused such document to be sent by facsimile to the following party:

☒ (BY PERSONAL SERVICE) I delivered by hand to the premises of the addressee.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the declaration was executed on February 22, 2011 at Encino, California.

Print _____

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles. I am over the age of eighteen and am not a party to the within action. My business address is 15910 Ventura Boulevard, Suite 1610, Encino, California 91436.

On February 22, 2011, I served a copy of the following document described as **PLAINTIFF CINDY GUILLEN-GOMEZ'S EXPERT DISCLOSURE** on the interested parties in this action as follows:

Linda Miller Savitt, Esq.
Ballard Rosenberg Golper & Savitt, LLP
500 North Brand Boulevard, Twentieth
Floor
Glendale, California 91203

Robert Tyson, Esq.
Burke, Williams & Sorensen, LLP
444 South Flower Street, Suite 2400
Los Angeles, California 90071

Carol Ann Humiston
Senior Assistant City Attorney
Office of the City Attorney
275 East Olive Avenue,
Burbank, California 91510-6459

XX

BY MAIL: By placing a true copy thereof enclosed in a sealed envelope(s) addressed as above, and placing each for collection and mailing on that date following ordinary business practices. I am "readily familiar" with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the U.S. mail Postal Service in Los Angeles, California, in a sealed envelope with postage fully prepaid.

BY OVERNIGHT DELIVERY: I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed as above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

BY E-MAIL OR ELECTRONIC TRANSMISSION: Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the person(s) at the e-mail address listed above. My electronic notification address is dj@rglawyers.com. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. A copy of the electronic transmission showing the time of service is attached.

XX

STATE: I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

EXECUTED on February 22, 2011, at Encino, California.

Daphne Johnson

LINDA MILLER SAVITT, SBN 094164
PHILIP L. REZNIK, SBN 204590
BALLARD, ROSENBERG, GOLPER & SAVITT LLP
500 North Brand Boulevard
Twentieth Floor
Glendale, CA 91203-9946
Telephone: 818-508-3700
Facsimile: 818-506-4827

LAWRENCE A. MICHAELS, SBN: 107260
MITCHELL SILBERBERG & KNUPP
11377 W. Olympic Blvd.
Los Angeles, CA 90064
Telephone: (310) 312-2000
Facsimile: (310) 312-3100

CAROL A. HUMISTON, SBN: 115592
Senior Assistant City Attorney
City of Burbank
275 E. Olive Avenue
Burbank, CA 91510
Telephone: (818) 238-5707
Facsimile: (818) 238-5724

Attorneys for Defendant
CITY OF BURBANK, including the Police
Department of the City of Burbank

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

OMAR RODRIGUEZ; CINDY GUILLEN-
GOMEZ; STEVE KARAGIOSIAN;
ELFEGO RODRIGUEZ; AND JAMAL
CHILDS,

Plaintiffs,

-VS-

BURBANK POLICE DEPARTMENT;
CITY OF BURBANK; TIM STEHR;
KERRY SCHILF; JAMIE "J.J." PUGLISI;
DAN YADON; KELLY FRANK; PAT
LYNCH; MIKE PARRINELLO; AARON
KENDRICK; DARIN RYBURN; AND
DOES 1 THROUGH 100, INCLUSIVE.

Defendants.

CASE NO: BC 414602

[Assigned to Hon. Joanne O'Donnell,
Dept. 37]

**DEFENDANTS' NOTICE OF
DEPOSITION OF PLAINTIFF'S
DESIGNATED EXPERT R.
WILLIAM MATHIS, Ph.D. AND
DEMAND FOR PRODUCTION OF
DOCUMENTS AT DEPOSITION**

Date: March 13, 2011
Time: 12:30 p.m.
Place: BRGS

Action filed: May 28, 2009
Trial Date: April 13, 2011

///



1 **TO PLAINTIFF CINDY GUILLEN-GOMEZ AND TO HER ATTORNEYS**
2 **OF RECORD:**

3 **PLEASE TAKE NOTICE** that pursuant to Code Civ. Proc. §§ 2025.010, *et seq.* and
4 2034.410 *et seq.*, Defendant CITY OF BURBANK ("Defendant") will depose Plaintiff's
5 designated expert witness as follows:

6 R. William Mathis, Ph.D. March 13, 2011 at 12:30 p.m.

7 This deposition will take place at the law offices of Ballard Rosenberg Golper &
8 Savitt, LLP ("BRGS"), 500 North Brand Boulevard, Twentieth Floor, Glendale, California
9 90213 (818) 508-3700. An expert witness fee will be provided to the Deponent at the time
10 of the deposition. The deposition will be taken before a certified court reporter or other
11 notary public duly authorized by law to administer the oath. If the deposition is not
12 completed by March 13, 2011, it will be completed on a mutually agreeable subsequent date.

13 **PLEASE TAKE FURTHER NOTICE** that pursuant to *Code of Civil Procedure* §
14 2025.220(a)(5), Defendant may record the deposition testimony by videotape, in addition to
15 recording the testimony stenographically, and/or through the use of instant visual display of
16 the testimony. Defendant also reserves the right to use the video of the deposition testimony
17 at trial pursuant to *Code of Civil Procedure* § 2025.620.

18 **PLEASE TAKE FURTHER NOTICE** that at the time of deposition, the Deponent
19 will be required to produce the following writings, documents and/or things for inspection
20 and copying. Please take further notice that the originals of the documents requested to be
21 produced be made available for inspection at the deposition.

22 **DEFINITIONS**

23 The term "document" or "writing(s)" as used herein shall mean all documents as
24 defined in California Evidence Code Section 250, including, without limitation, tape or other
25 forms of audio, visual or audio/visual recordings, drawings, films, graphs, charts,
26 photographs, records, and any retrievable data, whether in computer storage, carded,
27 punched, taped or coded form, or stored electro-statically, electro-magnetically or otherwise.
28 Without limiting the generality of the foregoing, "document(s)" or "writing(s)" specifically

1 includes all contracts, agreements, forms, correspondence, letters, telegrams, telephone
2 messages, notices, notes, memoranda, records, reports, diaries, minutes, statements,
3 worksheets, summaries, books, journals, ledgers, audits, maps, diagrams, drafts, newspapers,
4 appointment books, desk calendars, notes or summaries of personal interviews or
5 conversations, messages (including, but not limited to, reports of telephone conversations and
6 conferences), acknowledgments, telexes, all other written or printed matter of any kind, all
7 other data compilations from which information can be obtained and translated if necessary,
8 all other tangible things. Every draft or nonidentical copy of a document is a separate
9 document, as the terms "document(s)" and "writing(s)" are used herein. As used herein the
10 terms "document(s)" or "writing(s)" shall also include any handwriting, typewriting, printing,
11 photostatic, photographing, and every other means of recording and upon any tangible thing
12 or any form of communication or representation, including letters, words, pictures, sounds
13 or symbols, or combinations thereof, and all other things which come within the definition
14 of "writing(s)" contained in Section 250 of the California Evidence Code.

15 DOCUMENT REQUESTS

16 The documents to be produced by the Deponent at the deposition shall include:

- 17 1. All reports, writings and other documents prepared by the deponent, or by any
18 other person at her direction, in the course of preparing an opinion in this case.
- 19 2. All reports, writings and other documents provided to the deponent by Plaintiff
20 Guillen-Gomez and/or her counsel to assist the deponent in preparing an opinion in this case.
- 21 3. All reports, writings and other documents provided to Plaintiff Guillen-Gomez
22 and/or her counsel by the deponent to assist the deponent in preparing an opinion in this case.
- 23 4. All reports, writings and other documents which were reviewed or consulted
24 by the deponent in connection with this case.
- 25 5. All reports, writings and other documents upon which the deponent has relied
26 in forming an opinion in connection with this case.
- 27 6. The deponent's notes and writings generated in connection with this case.

28 ///

1 7. All reports, writings and other documents which memorialize the terms upon
2 which the deponent has been retained by Guillen-Gomez, either as a care provider, consultant
3 or as an expert trial witness.

4 8. All time or billing records for the work performed or the costs incurred by the
5 deponent with respect to this case.

6 9. All reports, writings and other documents which reflect the deponent's
7 compensation in connection with this case.

8 10. All reports, writings and other documents, not otherwise produced, prepared
9 by the deponent or by any other person at her direction, that reflect, refer to, or contain, any
10 opinion of the deponent in connection with this case.

11 11. The deponent's entire file concerning treatment, diagnosis, evaluation,
12 consultation, analysis, contact with Plaintiff Guillen-Gomez and/or her counsel, research,
13 investigation and evaluation of the issues concerning the deponent's opinions and their bases.

14 12. All writings or documents reflecting communications between Plaintiff
15 Guillen-Gomez's counsel and the deponent concerning this case.

16 13. A copy of the deponent's C.V. or other resume.

17 14. A copy of any and all relevant articles upon which the deponent has relied in
18 formulating his opinions in this case.

19 15. A listing of any and all articles or publications authored in whole or in part by
20 the deponent.

21
22 DATED: March 4, 2011

BALLARD ROSENBERG GOLPER & SAVITT, LLP

23
24 By: Philip L. Reznik
25 PHILIP L. REZNIK
26 Attorneys for Defendant
27 CITY OF BURBANK, including the Police Department
28 of the City of Burbank

PROOF OF SERVICE

I am a citizen of the United States, and am employed in the County of Los Angeles in the office of a member of the bar of this Court at whose directions this service was made. I am over the age of 18, and not a party to the within action. My business address is Ballard, Rosenberg, Golper & Savitt, 500 North Brand Boulevard, Twentieth Floor, Glendale, California 91203-9946.

On March 4, 2011, I served the foregoing document described as:
**DEFENDANTS' NOTICE OF DEPOSITION OF PLAINTIFF'S DESIGNATED
EXPERT R. WILLIAM MATHIS, Ph.D. AND DEMAND FOR PRODUCTION OF
DOCUMENTS AT DEPOSITION** on the interested parties in this action, by placing a true copy thereof in a sealed envelope addressed as follows:

Solomon E. Gresen, Esq.
Steven V. Rheuban, Esq.
Law Offices of Rheuban & Gresen
15910 Ventura Boulevard, Suite 1610
Encino, CA 91436
Tel: (818) 815-2727
Fax: (818) 815-2737
seg@rglawyers.com

Lawrence A. Michaels, Esq.
Sarah T. Wirtz, Esq.
Veronica T. Von Grabow, Esq.
Mitchell Silberberg & Knupp
11377 W. Olympic Blvd.
Los Angeles, CA 90064
Tel: (310) 312-2000
Fax: (310) 312-3100
lam@msk.com
stw@msk.com
vtv@msk.com

Carol A. Humiston
Senior Assistant City Attorney
City of Burbank
275 E. Olive Avenue
Burbank, CA 91510
Telephone: (818) 238-5707
Facsimile: (818) 238-5724
chumiston@ci.burbank.ca.us
Attorney for Defendant

X

(BY ELECTRONIC MAIL) I sent the above-mentioned documents via electronic mail addressed as set forth above.

X

(BY MAIL) and personally placing such envelope with postage fully prepaid for collection and mailing on the above-referenced date following the ordinary business practices of this office. I am readily familiar with our office's practice for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence, including said envelope, will be deposited with the United States Postal Service at Glendale on the above-referenced date.

I declare under penalty of perjury that the foregoing is true and correct under the laws of the State of California. Executed on March 4, 2011, at Glendale, California.


Leslie Rehers

(SPACE BELOW FOR FILING STAMP ONLY)

1 LINDA MILLER SAVITT, SBN 094164
2 PHILIP L. REZNIK, SBN 204590
3 BALLARD, ROSENBERG, GOLPER & SAVITT LLP
4 500 North Brand Boulevard
5 Twentieth Floor
6 Glendale, CA 91203-9946
7 Telephone: 818-508-3700
8 Facsimile: 818-506-4827

9 LAWRENCE A. MICHAELS, SBN: 107260
10 MITCHELL SILBERBERG & KNUPP
11 11377 W. Olympic Blvd.
12 Los Angeles, CA 90064
13 Telephone: (310) 312-2000
14 Facsimile: (310) 312-3100

15 CAROL A. HUMISTON, SBN: 115592
16 Senior Assistant City Attorney
17 City of Burbank
18 275 E. Olive Avenue
19 Burbank, CA 91510
20 Telephone: (818) 238-5707
21 Facsimile: (818) 238-5724

22 Attorneys for Defendant
23 CITY OF BURBANK, including the Police
24 Department of the City of Burbank

25 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

26 **COUNTY OF LOS ANGELES**

27 OMAR RODRIGUEZ; CINDY GUILLEN-
28 GOMEZ; STEVE KARAGIOSIAN;
ELFEGO RODRIGUEZ; AND JAMAL
CHILDS,

Plaintiffs,

-vs-

BURBANK POLICE DEPARTMENT;
CITY OF BURBANK; TIM STEHR;
KERRY SCHILF; JAMIE "J.J." PUGLISI;
DAN YADON; KELLY FRANK; PAT
LYNCH; MIKE PARRINELLO; AARON
KENDRICK; DARIN RYBURN; AND
DOES 1 THROUGH 100, INCLUSIVE.

Defendants.

CASE NO: BC 414602

[Assigned to Hon. Joanne O'Donnell,
Dept. 37]

**DEFENDANTS' NOTICE OF
DEPOSITION OF PLAINTIFF'S
DESIGNATED EXPERT R.
WILLIAM MATHIS, Ph.D. AND
DEMAND FOR PRODUCTION OF
DOCUMENTS AT DEPOSITION**

New Date: March 17, 2011
Time: 3:30 p.m.
Place: BRGS

Action filed: May 28, 2009
Trial Date: April 13, 2011



1 **TO PLAINTIFF CINDY GUILLEN-GOMEZ AND TO HER ATTORNEYS**
2 **OF RECORD:**

3 **PLEASE TAKE NOTICE** that pursuant to Code Civ. Proc. §§ 2025.010, *et seq.* and
4 2034.410 *et seq.*, Defendant CITY OF BURBANK ("Defendant") will depose Plaintiff's
5 designated expert witness as follows:

6 R. William Mathis, Ph.D. March 17, 2011 at 3:30 p.m.

7 This deposition will take place at the law offices of Ballard Rosenberg Golper &
8 Savitt, LLP ("BRGS"), 500 North Brand Boulevard, Twentieth Floor, Glendale, California
9 90213 (818) 508-3700. An expert witness fee will be provided to the Deponent at the time
10 of the deposition. The deposition will be taken before a certified court reporter or other
11 notary public duly authorized by law to administer the oath. If the deposition is not
12 completed by March 17, 2011, it will be completed on a mutually agreeable subsequent date.

13 **PLEASE TAKE FURTHER NOTICE** that pursuant to *Code of Civil Procedure* §
14 2025.220(a)(5), Defendant may record the deposition testimony by videotape, in addition to
15 recording the testimony stenographically, and/or through the use of instant visual display of
16 the testimony. Defendant also reserves the right to use the video of the deposition testimony
17 at trial pursuant to *Code of Civil Procedure* § 2025.620.

18 **PLEASE TAKE FURTHER NOTICE** that at the time of deposition, the Deponent
19 will be required to produce the following writings, documents and/or things for inspection
20 and copying. Please take further notice that the originals of the documents requested to be
21 produced be made available for inspection at the deposition.

22 **DEFINITIONS**

23 The term "document" or "writing(s)" as used herein shall mean all documents as
24 defined in California Evidence Code Section 250, including, without limitation, tape or other
25 forms of audio, visual or audio/visual recordings, drawings, films, graphs, charts,
26 photographs, records, and any retrievable data, whether in computer storage, carded,
27 punched, taped or coded form, or stored electro-statically, electro-magnetically or otherwise.
28 Without limiting the generality of the foregoing, "document(s)" or "writing(s)" specifically

1 includes all contracts, agreements, forms, correspondence, letters, telegrams, telephone
2 messages, notices, notes, memoranda, records, reports, diaries, minutes, statements,
3 worksheets, summaries, books, journals, ledgers, audits, maps, diagrams, drafts, newspapers,
4 appointment books, desk calendars, notes or summaries of personal interviews or
5 conversations, messages (including, but not limited to, reports of telephone conversations and
6 conferences), acknowledgments, telexes, all other written or printed matter of any kind, all
7 other data compilations from which information can be obtained and translated if necessary,
8 all other tangible things. Every draft or nonidentical copy of a document is a separate
9 document, as the terms "document(s)" and "writing(s)" are used herein. As used herein the
10 terms "document(s)" or "writing(s)" shall also include any handwriting, typewriting, printing,
11 photostatic, photographing, and every other means of recording and upon any tangible thing
12 or any form of communication or representation, including letters, words, pictures, sounds
13 or symbols, or combinations thereof, and all other things which come within the definition
14 of "writing(s)" contained in Section 250 of the California Evidence Code.

15 DOCUMENT REQUESTS

16 The documents to be produced by the Deponent at the deposition shall include:

- 17 1. All reports, writings and other documents prepared by the deponent, or by any
18 other person at her direction, in the course of preparing an opinion in this case.
- 19 2. All reports, writings and other documents provided to the deponent by Plaintiff
20 Guillen-Gomez and/or her counsel to assist the deponent in preparing an opinion in this case.
- 21 3. All reports, writings and other documents provided to Plaintiff Guillen-Gomez
22 and/or her counsel by the deponent to assist the deponent in preparing an opinion in this case.
- 23 4. All reports, writings and other documents which were reviewed or consulted
24 by the deponent in connection with this case.
- 25 5. All reports, writings and other documents upon which the deponent has relied
26 in forming an opinion in connection with this case.
- 27 6. The deponent's notes and writings generated in connection with this case.

28 ///

1 7. All reports, writings and other documents which memorialize the terms upon
2 which the deponent has been retained by Guillen-Gomez, either as a care provider, consultant
3 or as an expert trial witness.

4 8. All time or billing records for the work performed or the costs incurred by the
5 deponent with respect to this case.

6 9. All reports, writings and other documents which reflect the deponent's
7 compensation in connection with this case.

8 10. All reports, writings and other documents, not otherwise produced, prepared
9 by the deponent or by any other person at her direction, that reflect, refer to, or contain, any
10 opinion of the deponent in connection with this case.

11 11. The deponent's entire file concerning treatment, diagnosis, evaluation,
12 consultation, analysis, contact with Plaintiff Guillen-Gomez and/or her counsel, research,
13 investigation and evaluation of the issues concerning the deponent's opinions and their bases.

14 12. All writings or documents reflecting communications between Plaintiff
15 Guillen-Gomez's counsel and the deponent concerning this case.

16 13. A copy of the deponent's C.V. or other resume.

17 14. A copy of any and all relevant articles upon which the deponent has relied in
18 formulating his opinions in this case.

19 15. A listing of any and all articles or publications authored in whole or in part by
20 the deponent.

21
22 DATED: March 8, 2011

BALLARD ROSENBERG GOLPER & SAVITT, LLP

23
24 By: 

PHILIP L. REZNIK

Attorneys for Defendant

CITY OF BURBANK, including the Police Department
of the City of Burbank

PROOF OF SERVICE

I am a citizen of the United States, and am employed in the County of Los Angeles in the office of a member of the bar of this Court at whose directions this service was made. I am over the age of 18, and not a party to the within action. My business address is Ballard, Rosenberg, Golper & Savitt, 500 North Brand Boulevard, Twentieth Floor, Glendale, California 91203-9946.

On March 8, 2011, I served the foregoing document described as:
DEFENDANTS' NOTICE OF DEPOSITION OF PLAINTIFF'S DESIGNATED EXPERT R. WILLIAM MATHIS, Ph.D. AND DEMAND FOR PRODUCTION OF DOCUMENTS AT DEPOSITION on the interested parties in this action, by placing a true copy thereof in a sealed envelope addressed as follows:

Solomon E. Gresen, Esq.
Steven V. Rheuban, Esq.
Law Offices of Rheuban & Gresen
15910 Ventura Boulevard, Suite 1610
Encino, CA 91436
Tel: (818) 815.2727
Fax: (818) 815-2737
seg@rglawyers.com

Lawrence A. Michaels, Esq.
Sarah T. Wirtz, Esq.
Veronica T. Von Grabow, Esq.
Mitchell Silberberg & Knupp
11377 W. Olympic Blvd.
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Tel: (310) 312-2000
Fax: (310) 312-3100
lam@msk.com
stw@msk.com
vtt@msk.com

Carol A. Humiston
Senior Assistant City Attorney
City of Burbank
275 E. Olive Avenue
Burbank, CA 91510
Telephone: (818) 238-5707
Facsimile: (818) 238-5724
chumiston@ci.burbank.ca.us
Attorney for Defendant

X

BY FACSIMILE; and

(BY ELECTRONIC MAIL) I sent the above-mentioned documents via electronic mail addressed as set forth above.

X

(BY MAIL) and personally placing such envelope with postage fully prepaid for collection and mailing on the above-referenced date following the ordinary business practices of this office. I am readily familiar with our office's practice for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence, including said envelope, will be deposited with the United States Postal Service at Glendale on the above-referenced date.

I declare under penalty of perjury that the foregoing is true and correct under the laws of the State of California. Executed on March 8, 2011, at Glendale, California.


Leslie Reheis

Philip L. Reznik

From: Philip L. Reznik
Sent: Tuesday, March 15, 2011 8:24 PM
To: 'tracy@mathisgroup.net'
Cc: 'jan.mathis@gmail.com'; 'Solomon Gresen'; 'Humiston, Carol Ann'; 'Michaels, Larry'; Linda C. Miller Savitt; 'von Grabow, Veronica'; 'Wirtz, Sarah'; Leslie Reheis
Subject: RE: Rodriguez v. City of Burbank

Tracy,

Per the deposition notices, this firm represents the City of Burbank, the defendant in this action. This firm did not retain or designate Dr. Mathis as an expert witness. The opposing party, i.e., the Plaintiff -- Cindy Guillen-Gomez -- designated Dr. Mathis as an expert. Please note that Dr. Mathis' deposition on Thursday afternoon remains on calendar. Trial is set for April 13. A deposition on or after April 4 would not leave enough time for our own experts to prepare for trial. If we cannot depose Dr. Mathis by next week, at the latest, we will have no choice but to seek exclusion of his testimony at trial.

From: Leslie Reheis
Sent: Tuesday, March 15, 2011 4:21 PM
To: Philip L. Reznik
Subject: FW: Rodriguez v. City of Burbank

Leslie Reheis
 (818) 508-3700 x 2145
 lreheis@brgslaw.com

From: Tracy Ray [mailto:]
Sent: Tuesday, March 15, 2011 3:33 PM
To: Leslie Reheis
Cc: Dr. Bill Mathis; Jan Mathis (jan.mathis@gmail.com); Barbara Kamin
Subject: RE: Rodriguez v. City of Burbank

Leslie,

Dr. Mathis asked if he will need to see your client first of all.
 Secondly, if that is not the case then he can review papers on court case
 (Rodriguez v. City of Burbank) and we could possibly look at either the 4th or the
 6th of April both would be morning appointments.

Thank you!

Tracy Ray
 Executive Assistant

3/16/2011

47





Mathis Group
3435 Valle Verde Drive
Napa, CA 94558
(707) 252-2151 Phone
(707) 252-1349 Fax
[www. Mathisgroup.net](http://www.Mathisgroup.net)

From: Leslie Reheis [mailto:lreheis@brgslaw.com]
Sent: Tuesday, March 15, 2011 12:40 PM
To: Tracy Ray
Cc: Philip L. Reznik
Subject: RE: Rodriguez v. City of Burbank

Tracy - what would be the next available day that Dr. Mathis would have for his deposition after Thursday, March 17, 2011? Thank you.

Leslie Reheis
(818) 508-3700 x 2145
lreheis@brgslaw.com

From: Tracy Ray [mailto:tracy@mathisgroup.net]
Sent: Tuesday, March 15, 2011 12:00 PM
To: Leslie Reheis
Cc: Dr. Bill Mathis; Jan Mathis (jan.mathis@gmail.com); Barbara Kamin
Subject: RE: Rodriguez v. City of Burbank

Leslie,

Dr. Mathis cannot be deposed on someone he has not seen. He unfortunately will not be attending.

Thank you for your understanding in this matter.

Tracy Ray
Executive Assistant



Mathis Group
3435 Valle Verde Drive
Napa, CA 94558
(707) 252-2151 Phone
(707) 252-1349 Fax

3/16/2011

48 175-2

www. Mathisgroup.net

From: Leslie Reheis [mailto:lreheis@brgslaw.com]

Sent: Tuesday, March 15, 2011 11:51 AM

To: Tracy Ray

Cc: seg@rglawyers.com; dj@rglawyers.com; sf@rglawyers.com; Michaels, Larry; von Grabow, Veronica; Sarah T. Wirtz; CHumiston@ci.burbank.ca.us; Arutyunyan, Lusine; Linda C. Miller Savitt; Lori Leibman; Philip L. Reznik

Subject: Rodriguez v. City of Burbank

Hi Tracy - This will confirm our telephone conversation of today's date confirming Dr. Mathis deposition for Thursday, March 17, 2011, 3:30 p.m. in our offices regarding the above matter. As a reminder, we are going to need Dr. Mathis' tax identification number to have a check issued for him. Please call with any questions and thank you for all your help.

Leslie Reheis, Assistant to Gordon Kojima & Phil Reznik
Ballard Rosenberg Golper & Savitt, LLP
500 North Brand Boulevard
Twentieth Floor
Glendale, CA 91203
Tele. (818) 508-3700
Fax. (818) 506-4827
lreheis@brgslaw.com

This Message Contains Information Which May Be Confidential And Privileged. Unless You Are The Addressee (Or Authorized To Receive For The Addressee), You May Not Use, Copy Or Disclose To Anyone The Message Or Any Information Contained In The Message.

If You Have Received The Message In Error, Please Advise The Sender By Reply E-Mail info@brgslaw.com, And delete The Message. Do Not Forward Without Author's Permission.

Thank You Very Much.

This Message Contains Information Which May Be Confidential And Privileged. Unless You Are The Addressee (Or Authorized To Receive For The Addressee), You May Not Use, Copy Or Disclose To Anyone The Message Or Any Information Contained In The Message.

If You Have Received The Message In Error, Please Advise The Sender By Reply E-Mail info@brgslaw.com, And delete The Message. Do Not Forward Without Author's Permission.

Thank You Very Much.

3/16/2011

49 175-3



LABOR AND EMPLOYMENT LAW
ON BEHALF OF MANAGEMENT
AND RELATED LITIGATION

500 NORTH BRAND BOULEVARD
TWENTIETH FLOOR
GLENDALE, CALIFORNIA 91203-9946

TELEPHONE:
818-508-3700

FACSIMILE:
818-506-4827

E-MAIL:
Preznik@brgslaw.com

March 15, 2011

Solomon E. Gresen, Esq.
Law Offices of Rheuban & Gresen
15910 Ventura Blvd., Suite 1610
Encino, CA 91436

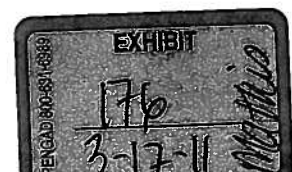
Re: Rodriguez v. Burbank Police Department, et al.

Dear Mr. Gresen:

We have received the attached email from the office of Dr. Mathis indicating that he is refusing to appear for his noticed deposition on Thursday afternoon because he has never seen Ms. Guillen. We have also been provided a copy of the letter Mr. Rheuban sent to Larry Michaels today (copy attached), which indicates that, in addition to Dr. Mathis, your other designated expert, Mr. Drummond, is also not prepared and will thus not be produced for his noticed deposition on March 24, nor will he be prepared at any time prior to obtaining the documents that you "expect" to be disclosed pursuant to the pending Pitchess motion.

The letter **also** indicates that -- in addition to failing to appear for her noticed deposition on March 14 due to a "misfiling" of the deposition notice at your office -- Ms. Guillen will not appear for deposition at any time next week either, purportedly because neither you nor Mr. Rheuban will be available to attend.

These delays are unacceptable on the eve of trial and the City will not agree to a continuance of any of these properly-noticed depositions. As you know, pursuant to Code of Civil Procedure § 2034.260(c)(4), you are required to ensure that any experts named are ready to submit to a meaningful deposition regarding any opinion he or she is expected to give at trial. If they are not ready to testify, that is because of Ms. Guillen's own unreasonable delay in obtaining an expert consultation and filing a Pitchess motion. This case was filed in May of 2009. She cannot colorably assert that she has not had time to consider whether she would be calling an expert witness regarding her alleged emotional and psychological damages, to select such an expert and to have the expert perform a psychological evaluation. Likewise, there is absolutely no reason that, in the almost two years that this case has been pending, she could not have filed a Pitchess motion prior to the eve of trial.



51

Solomon Gresen, Esq., et al.
March 15, 2011
Page 2

As to Dr. Mathis, notice of his deposition was served on February 22, with the deposition initially set for March 13, 2011. Then, **after consultation with Dr. Mathis' office regarding his schedule**, we agreed to **continue** the deposition to March 17, 2011. At no time prior to today did Dr. Mathis indicate that he had never even met Ms. Guillen and is not prepared to testify. Further, per the attached email, if and when Dr. Mathis ever meets and examines Ms. Guillen, he will still not be available for deposition until **April 4 at the earliest – only nine days before trial**. As to Mr. Drummond, there is no telling when the Court will rule on the Pitchess motion, when the Court will review any material deemed to be subject to *in camera* inspection and when such inspection would be completed. The lack of readiness of by Plaintiff's expert is inexcusable and refusing to produce her experts for deposition seriously prejudices the City's ability to prepare for trial because its own witnesses will not have time to properly develop their own opinions.

Under these circumstances, Ms. Guillen's failure to make her experts available for deposition is clearly "unreasonable" and if they fail to appear for the depositions their testimony will be subject to exclusion pursuant to CCP § 2034.300(d). Accordingly, we ask that you immediately withdraw the designation of these experts. If you will not do so, and they fail to appear for their depositions, the City will have no choice but to seek exclusion of their testimony at trial.

Further, the City will not agree to the proposed indefinite continuance of Ms. Guillen's deposition. Mr. Rheuban's letter indicates that she will not appear on Friday, or next week, but gives no indication of when she *is* willing to appear for her deposition, if at all. Moreover, while it states that neither you nor Mr. Rheuban is available to attend depositions next week, it gives no reason why any of the other Rheuban & Gresen attorneys who have worked on this case -- Mr. Cischke, Mr. Hayden, Mr. Levy or Ms. Thompson -- cannot attend the depositions.

Finally, neither Ms. Guillen's delay in preparing her experts nor the fact that the Court has not yet ruled on summary judgment constitute good cause for continuing the trial. In addition to setting Ms. Guillen's trial in June, the Court set trial for Mr. Karagiosian's claims in June and for Omar Rodriguez' claims in July. Continuing the trial on Ms. Guillen's claims will provide insufficient time to prepare for the Karagiosian trial, which would in turn impact the Rodriguez trial. The end result would be a substantial and unjustifiable further delay in resolving this matter, which has already dragged on for almost two years.

Please respond as soon as possible, but in no event later than noon tomorrow, as to whether Ms. Guillen will voluntarily withdraw her experts.

176-2 52

Solomon Gresen, Esq., et al.
March 15, 2011
Page 3

Otherwise, we will ask the Court to exclude them at the *ex parte* appearance on Thursday.

Very truly yours,

BALLARD, ROSENBERG, GOLPER & SAVITT LLP


Philip L. Reznik

attachments

cc: Carol Humiston, Esq.
Larry Michaels, Esq.
Linda Miller Savitt, Esq.

176-353

STEVEN V. RHEUBAN
SOLOMON E. GRESSEN

LAW OFFICES OF
RHEUBAN & GRESSEN
15910 VENTURA BOULEVARD
SUITE 1610
ENCINO, CALIFORNIA 91436
TELEPHONE: (818) 815-2727
FACSIMILE: (818) 815-2737

STEVEN M. CISCHE
ROBERT C. HAYDEN
JOSEPH M. LEVY
INDIA S. THOMPSON

March 14, 2011

VIA EMAIL: LAM@msk.com & U.S. MAIL

Lawrence A. Michaels, Esq.
Mitchell Silberberg & Knupp LLP
11377 West Olympic Boulevard
Los Angeles, CA 90064-1683

Re: Rodriguez v. Burbank Police Department, et al.
LASC Case No. BC 414 602
Further Meet and Confer Re Deposition of Experts

Dear Mr. Michaels:

We have a trial set for Monday morning, March 21, 2011. Mr. Drummond and Dr. Mathis are designated experts for that trial and will be unavailable for deposition next week. Since we are still waiting for the Judge's decision on the *Pitchess* motion, and since we do not have the information that we expect the motion will disclose, Mr. Drummond is not yet prepared to render his opinions. Dr. Mathis is also not yet prepared to render his opinions at a deposition. Ms. Guillen is attending training on Friday, March 18, 2011, and Mr. Gresen and I are busy preparing for the trial on Monday and are not available to attend a deposition with Ms. Guillen.

As Mr. Gresen has explained to you, we are going to make an *ex parte* request for a continuance of the trial, since we have not yet received a ruling on the Motion for Summary Judgment. And, we have not received the documents from the *Pitchess* motions (on which there is not yet a ruling) and we cannot properly prepare for trial in the absence of such documents. We also believe it is unreasonable for us to have to incur the expense for the expert witnesses in light of a lack of ruling on the Motion for Summary Judgment.

Please accept this email as our further meet and confer regarding these issues and as our notice that on Thursday, March 17, 2011, we will appear in Department 37 at 8:30 .am. for the purpose of requesting a continuance of the trial for at least 30 days, or such other later date as may be convenient to the court and counsel .

Very truly yours,

LAW OFFICES OF RHEUBAN & GRESSEN

Steven V. Rheuban

SVR/dj

176-454

Philip L. Reznik

From: Leslie Reheis
Sent: Tuesday, March 15, 2011 4:21 PM
To: Philip L. Reznik
Subject: FW: Rodriguez v. City of Burbank

Leslie Reheis
(818) 508-3700 x 2145
lreheis@brgslaw.com

From: Tracy Ray [mailto:tracy@mathisgroup.net]
Sent: Tuesday, March 15, 2011 3:33 PM
To: Leslie Reheis
Cc: Dr. Bill Mathis; Jan Mathis (jan.mathis@gmail.com); Barbara Kamin
Subject: RE: Rodriguez v. City of Burbank

Leslie,

Dr. Mathis asked if he will need to see your client first of all.
Secondly, if that is not the case then he can review papers on court case
(Rodriguez v. City of Burbank) and we could possibly look at either the 4th or the
6th of April both would be morning appointments.

Thank you!

Tracy Ray
Executive Assistant

x Descri
Mathis
Comm

3435 Valle Verde Drive
Napa, CA 94558
(707) 252-2151 Phone
(707) 252-1349 Fax
www.Mathisgroup.net

From: Leslie Reheis [mailto:lreheis@brgslaw.com]
Sent: Tuesday, March 15, 2011 12:40 PM
To: Tracy Ray

3/15/2011

176555

Cc: Philip L. Reznik
Subject: RE: Rodriguez v. City of Burbank

Tracy - what would be the next available day that Dr. Mathis would have for his deposition after Thursday, March 17, 2011? Thank you.

Leslie Reheis
(818) 508-3700 x 2145
lreheis@brgslaw.com

From: Tracy Ray [<mailto:tracy@mathisgroup.net>]
Sent: Tuesday, March 15, 2011 12:00 PM
To: Leslie Reheis
Cc: Dr. Bill Mathis; Jan Mathis (jan.mathis@gmail.com); Barbara Kamin
Subject: RE: Rodriguez v. City of Burbank

Leslie,
Dr. Mathis cannot be deposed on someone he has not seen. He unfortunately will not be attending.
Thank you for your understanding in this matter.

Tracy Ray
Executive Assistant

✕ Descri
Mathis
Group

3435 Valle Verde Drive
Napa, CA 94558
(707) 252-2151 Phone
(707) 252-1349 Fax
www.Mathisgroup.net

From: Leslie Reheis [<mailto:lreheis@brgslaw.com>]
Sent: Tuesday, March 15, 2011 11:51 AM
To: Tracy Ray
Cc: seg@rglawyers.com; dj@rglawyers.com; sf@rglawyers.com; Michaels, Larry; von Grabow, Veronica; Sarah T. Wirtz; CHumiston@ci.burbank.ca.us; Arutyunyan, Lusine; Linda C. Miller Savitt; Lori Leibman; Philip L. Reznik
Subject: Rodriguez v. City of Burbank

Hi Tracy - This will confirm our telephone conversation of today's date confirming Dr. Mathis deposition for Thursday, March 17, 2011, 3:30 p.m. in our offices regarding the above matter. As a reminder, we are going to need Dr. Mathis' tax identification number to have a check issued for him. Please call with any questions and thank you for all your help.

3/15/2011

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Leslie Reheis, Assistant to Gordon Kojima & Phil Reznik
Ballard Rosenberg Golper & Savitt, LLP
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Thank You Very Much.

3/15/2011

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Philip L. Reznik

From: Susan Campana [csrsue9573@sbcglobal.net]

Sent: Wednesday, April 06, 2011 11:25 AM

To: Philip L. Reznik

Subject: Rough draft of Mathis depo

Attachments: MATHIS-ROUGH.TXT

As requested, attached is the rough draft of the deposition of R. William Mathis, PhD, taken on Monday, 4/4/11.

-Sue

Susan C. Campana

CSR No. 9573, RPR

csrsue9573@sbcglobal.net

(805) 216-2258 (cell)

MATHIS-ROUGH

1 (The following is an unedited rough draft and is not in final form.
2 Various corrections and/or changes will made before the final version
3 is completed. This rough draft and/or rough ASCII is being provided
4 as a special service and is only to be used for limited purposes. The
5 court reporter will not be responsible for content of such rough draft
6 and/or any variance thereof from the final transcript.)
7

8 Q. Sir, will you state your full name for the
9 record.

10 A. Yes. William Mathis, M-a-t-h-i-s, PhD.

11 MR. REZNIK: And, Mr. -- Dr. Mathis, excuse me,
12 you've brought some -- there's some documents here I want
13 to mark as exhibits.

14 The first is are the notice of deposition of
15 plaintiff's expert. We'll call that Exhibit 177. Then
16 there is a notice of deposition for today, April 4th.
17 We'll call that 178.

18 MR. RHEUBAN: Do you have a copy there for me?

19 MR. REZNIK: Yes, I do.

20 MR. RHEUBAN: It's not critical.

21 MR. REZNIK: Here's the 4th one.

22 We have what appears to be a --
23 what would you call this?

24 THE WITNESS: Resume.

25 MR. REZNIK: A resume.

MATHIS-ROUGH

2 I'm going to ask my secretary to copy these
3 now-numbered exhibits so that we can pass them around.
4 And we'll just proceed without them until they come back.

5 MR. RHEUBAN: I've got copies. We can use my copies,
6 if necessary, while she's copying them.

7 MR. REZNIK: Do you have copies of the same ones?

8 MR. RHEUBAN: All except the items after 183 that
9 there letters and emails between our offices.

10 MR. REZNIK: All right. Well, let me -- you have
11 copies of the personal profile and the notes and all?

12 MR. RHEUBAN: Everything up through 183.

13 MR. REZNIK: Okay. I'll be right back.

14 (A recess was taken.)

15 (Exhibit Nos. 177 through 186 were marked for
16 identification.)

17 MR. REZNIK: Let's go back on the record.

18 Q. Dr. Mathis, Exhibit 177 is defendant's notice of
19 deposition of plaintiff's designated expert, R. William
20 Mathis, PhD, and demand for production of documents at
21 deposition. And it says, "New date, March 17, 2011."

22 Do you have a copy of that to show him?

23 MR. RHEUBAN: Right in front of me.

24 MR. REZNIK: Okay.

25 MR. RHEUBAN: And then 178 is the updated one.

1 MR. REZNIK: Right.

2 Q. Let's look at the updated one.
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MATHIS-ROUGH

3 Exhibit 178 is the same notice for deposition on
4 April 4, 2011. -- actually, let me go back to be 177.

5 Dr. Mathis, were you told that there was a
6 notice for your deposition to be taken on March 17, 2011?

7 A. That's a Thursday?

8 Q. Yes.

9 A. Yes. Yes, I was.

10 Q. Was that a Thursday?

11 A. Yes.

12 Q. And did you appear at that deposition?

13 A. No.

14 Q. Okay. And why did you not appear?

15 A. Because I hadn't seen the client.

16 Q. Okay. We'll get into what contacts you had with
17 counsel and when as we go down here.

18 A. Okay.

19 Q. All right. Now let's look at 178, the notice
20 for the deposition for today.

21 Doctor, if you go to page 3, where it says,
22 "Documents Requested," and I just want to go down this
23 list and confirm that you have brought all of these.

24 Now, you've already indicated that your MMPI
25 tests -- are they not completed -- the scoring is not

1 completed?

2 A. That's correct.

3 Q. Okay.

MATHIS-ROUGH

15 understand it's preliminary -- that she's in need the
16 psychotherapy?

17 A. Well, I will tell you based on her background
18 and her personality, she would be very difficult to ask
19 for help. She would be a difficult case to treat because
20 she's so self-reliant.

21 Q. You said that you expect the MMPI and --

22 A. CPI.

23 Q. -- CPI --

24 A. Yes.

25 Q. -- to corroborate your preliminary opinion as to

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1 her having mild anxiety -- actually, strike that. Let me
2 go back.

3 Other than a mild anxiety condition, is there --

4 There is a diagnostic manual called the DSM-IV;
5 is that right?

6 A. Yes.

7 Q. And there are four axes?

8 A. Right. You'll find that is one of the number
9 ones.

10 Q. Okay.

11 A. That's number one. And you'll find that is part
12 of the testing process that will come back.

13 Q. Okay. So that's Axis 1 is where general anxiety
14 disorder, if that's what it's called.

15 what is Axis 2?

MATHIS-ROUGH

16 A. Well, you don't want to go into those yet until
17 we come back. And those have to do with physical
18 symptoms and how they interact with each other and what
19 broad characteristics they go through. And I wouldn't be
20 prepared to go through those yet.

21 Q. Okay. Then --

22 A. Can I offer a couple more?

23 Q. Yes.

24 A. I suspect we're going to find her to be -- two
25 areas where she is going to show extremely high on the

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1 testing and perhaps even oversensitive at this juncture
2 based on her experience at Burbank.

3 One, I would suspect that you're going to find
4 her paranoia scale to be excessive. Now, that means that
5 she's not paranoid but that she believes people around
6 her in her team are after her, and she's overly
7 suspicious of every behavior. I believe we're going to
8 see that on her scale.

9 Q. Let me stop you there because you said she's not
10 paranoid, and then you described something that a layman
11 might think is a description of someone who is paranoid.

12 A. Well, the difference between paranoia is when
13 you dream someone is after you, and when someone is
14 really after you, then that raises the scale the same
15 way.

16 Q. Okay. So how --

MATHIS-ROUGH

20 wrong thing to him. "What does this have to do with
21 anything?" is the look you have on your face.

22 MR. REZNIK: Yes. That's what I was thinking.

23 Q. All right. Actually, one last thing before we
24 break -- no. No last thing -- oh, yes.

25 I have here a check, Dr. Mathis, for \$750, which

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1 would be two hours. And we've been more than two hours.

2 So based on -- I'm going to hand this check to
3 you. And based on the extra time, I'll have my office
4 ask your office for an extra invoice to cover the
5 additional time.

6 Do we want to find a date -- I'll have to go
7 back to my office for a moment and get a date book. But
8 can we set a date for -- I guess it --

9 MR. RHEUBAN: Are we off the record?

10 MR. REZNIK: We can go off the record for a second.

11 (Discussion held off the record.)

12 MR. REZNIK: We're going to adjourn the deposition
13 for now, and we're going to set a date sometime next
14 week -- we can stipulate to that -- to complete the
15 deposition after Dr. Mathis has received the scored
16 standardized tests.

17 THE WITNESS: And is that a "maybe," after you've
18 seen it?

19 MR. REZNIK: That's a -- that's a "probably."

20 THE WITNESS: The reason I'm asking is because I'm in
Page 84

MATHIS-ROUGH

21 the north next week. And that means that as you look
22 towards trial and you look towards other times, I want to
23 make sure I am available.
24 MR. REZNIK: Well, if necessary, I'll fly up there.
25 THE WITNESS: Napa Valley is a tough place to work

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1 with. I live on a golf course.
2 MR. REZNIK: I can live with that.
3 MR. RHEUBAN: Can make a suggestion to you?
4 You'll get the report. We'll shoot it off to
5 them. You and I will talk. Maybe we fly up there.
6 Maybe we'll do it in the city, if necessary, in San
7 Francisco and you drive down for an hour or so. I mean,
8 we'll see.
9 THE WITNESS: Right I'll be as accommodating as you
10 want.
11 MR. RHEUBAN: Let's see because you may --
12 MR. REZNIK: Because our expert has to look at those
13 too and have some time. Trial is coming up so soon.
14 MR. RHEUBAN: And I think I need a date with your
15 expert at some point along the way here because he
16 couldn't do anything until he received this. So I
17 haven't pushed for anything.
18 MR. REZNIK: Yeah. I believe he's examining Officer
19 Guillen-Gomez --
20 MR. RHEUBAN: Today.
21 MR. REZNIK: Is it today?

Philip L. Reznik

From: Steven Rheuban [svr@rglawyers.com]
Sent: Tuesday, April 12, 2011 1:39 PM
To: Philip L. Reznik; Solomon Gresen
Cc: Humiston, Carol Ann; Linda C. Miller Savitt; Michaels, Larry; Leslie Reheis; von Grabow, Veronica; Wirtz, Sarah; Daphne Johnson; Shannon Ford
Subject: RE: Rodriguez v.

Phil,

I am trying to work out a date with Dr. Mathis. He is in Napa this week and not available. It looks like he is available Monday early in the morning or later in the afternoon. Please let me know.

Steve

From: Philip L. Reznik [mailto:preznik@brgslaw.com]
Sent: Tuesday, April 12, 2011 10:47 AM
To: Solomon Gresen; Steven Rheuban
Cc: Humiston, Carol Ann; Linda C. Miller Savitt; Michaels, Larry; Leslie Reheis; von Grabow, Veronica; Wirtz, Sarah; Daphne Johnson; Shannon Ford
Subject: RE: Rodriguez v.

As you know, Dr. Mathis did not produce the testing data (which he was requested to produce at his deposition) until yesterday. Nevertheless, Dr. High can provide his report next week, PROVIDED that Dr. Mathis appears this week for the completion of his deposition, as promised. (We want Dr. High to have Dr. Mathis' complete deposition before finalizing his report.) I still have not heard from Steve on Dr. Mathis' availability. If I don't hear back within the next few hours, I will set the depo for 2pm on Friday.

From: Solomon Gresen [mailto:seg@rglawyers.com]
Sent: Tuesday, April 12, 2011 9:58 AM
To: Philip L. Reznik; Steven Rheuban
Cc: Humiston, Carol Ann; Linda C. Miller Savitt; Michaels, Larry; Leslie Reheis; von Grabow, Veronica; Wirtz, Sarah; Daphne Johnson; Shannon Ford
Subject: RE: Rodriguez v.

Phil,

When will we be getting the report of your expert?

Solomon E. Gresen, Esq.
LAW OFFICES OF RHEUBAN & GRESEN
15910 Ventura Boulevard, Suite 1610
Encino, California 91436
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Thank You Very Much.

PROOF OF SERVICE

I am a citizen of the United States, and am employed in the County of Los Angeles in the office of a member of the bar of this Court at whose directions this service was made. I am over the age of 18, and not a party to the within action. My business address is Ballard, Rosenberg, Golper & Savitt, 500 North Brand Boulevard, Twentieth Floor, Glendale, California 91203-9946.

On April 14, 2011, I served the foregoing document described as:
**DECLARATION OF PHILIP L. REZNIK IN SUPPORT OF DEFENDANT 'S
MOTION FOR IN LIMINE NO. 7 FOR AN ORDER EXCLUDING ANY
TESTIMONY OF R. WILLIAM MATHIS, Ph.D.** on the interested parties in this action, by placing a true copy thereof in a sealed envelope addressed as follows:

Solomon E. Gresen, Esq.
Steven V. Rheuban, Esq.
Law Offices of Rheuban & Gresen
15910 Ventura Boulevard, Suite 1610
Encino, CA 91436
Tel: (818) 815.2727
Fax: (818) 815-2737
seg@rglawyers.com
Attorneys for Plaintiffs

 VIA FACSIMILE; and

 (BY FEDEX) I am "readily familiar" with the firm's practice of collection and processing correspondence for delivery by Federal Express. Under that practice, in the ordinary course of business, it would be deposited with Federal Express on that same day with directions for next day delivery, with the Federal Express fees guaranteed to be paid by Ballard, Rosenberg, Golper & Savitt, LLP.

 X **(BY ELECTRONIC MAIL)** I sent the above-mentioned documents via electronic mail addressed as set forth above.

 X **(BY MAIL)** and personally placing such envelope with postage fully prepaid for collection and mailing on the above-referenced date following the ordinary business practices of this office. I am readily familiar with our office's practice for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence, including said envelope, will be deposited with the United States Postal Service at Glendale on the above-referenced date.

 (BY PERSONAL SERVICE) I delivered such envelope(s) by hand to the above-addressee(s).

I declare under penalty of perjury that the foregoing is true and correct under the laws of the State of California. Executed on April 14, 2011 at Glendale, California.


Leslie Reheis